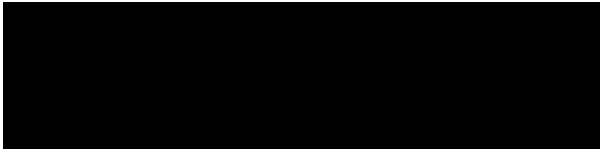


D7

U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



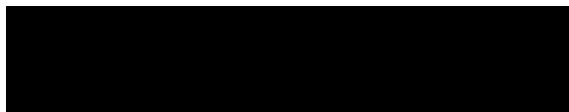
U.S. Citizenship
and Immigration
Services



FILE: SRC 03 132 51260 Office: TEXAS SERVICE CENTER Date:

DEC 10 2004

IN RE: Petitioner:
Beneficiary:



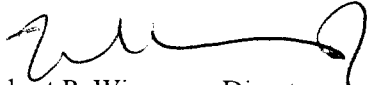
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

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**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

DISCUSSION: The Director, Texas Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner states that it is an interior cleaning/janitorial service. It seeks to extend its authorization to employ the beneficiary temporarily in the United States as its president, pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The director denied the petition based on the following conclusions: 1) the petitioner has failed to submit sufficient information in response to the director's request for further evidence; 2) the petitioner has not established that the U.S. and foreign entity are engaged in a regular, systematic, and continuous provision of goods and/or services and are qualifying organizations; and 3) the petitioner has not shown that the beneficiary would be employed by the U.S. entity in a primarily executive capacity.

On appeal, the petitioner simply asserts:¹

Additional documentation to support the petition is enclosed. Please note, as evidenced by the paperwork, Mrs. Amparo Velasquez Tovar's salary has been covered by the foreign entity, Colegio Jardin Infantil Mi Amparito.

Please review the foregoing documentation and inform us of your decision at your earliest convenience.

The petitioner also submits on appeal copies of the payroll of the foreign entity in March through June 2003 and a certification from the foreign entity's public accountant.

To establish eligibility under section 101(a)(15)(L) of the Act, the petitioner must meet certain criteria. Specifically, within three years preceding the beneficiary's application for admission into the United States, a firm, corporation, or other legal entity, or an affiliate or subsidiary thereof, must have employed the beneficiary for one continuous year. Furthermore, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial, executive, or specialized knowledge capacity.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition. Moreover, the regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

¹ The AAO notes that on appeal, the petitioner failed to submit a Form I-290B, Notice of Appeal to the AAO, as instructed by the director. Instead, the petitioner submitted a Form EOIR-29, Notice of Appeal to the Board of Immigration Appeals. However, appellate jurisdiction over this matter properly rests with the AAO, in accordance with the regulations at 8 C.F.R. § 103.3(a).

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met this burden.

ORDER: The appeal is summarily dismissed.